IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.480 OF 2005
IN
SUMMARY SUIT NO.3369 OF 2003

Karmaveer Dadasaheb Gaikwad
Sanskritik Kendra & Ors. ..Plaintiffs.

Vs.

Softrak Technology Export
Ltd. & Ors. ..Defendants.

Mr.Y.D.Mulani for the Plaintiffs.
Mr.A. Panikar for the Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 7TH DECEMBER, 2005

P.C. :

The suit is filed to recover an amount of Rs.2,00,000/- based on a written agreement dated 29.4.2000 entered into between the Plaintiffs and the Defendants.

2. Under clause (M) the Defendants were to deposit a sum of Rs.5,00,000/- with the Plaintiffs in instalments of Rs.2,00,000/- on the signing of the agreement, Rs.2,00,000/- after receiving and installation of the equipment and Rs.1,00,000/- when the actual clause/project is completed. The said clause also provides that in the event of

termination the said amount is to be refunded.

3. No affidavit in reply is filed despite the matter being adjourned to enable the Defendants to do so.

4. By a letter dated 22.1.2001 the Plaintiffs called upon the Defendants to set up the equipment as per the agreement. There was not even a reply to this letter. Understandably, by a letter dated 16.7.2001 the Plaintiffs informed the Defendants that in view of the aforesaid breach they were no longer interested in going ahead with the said agreement. They therefore requested refund of the said amount of Rs.2,00,000/- deposited by them. The subsequent amounts were not deposited as the occasion to do so had not arisen in view of the Defendant’s failure to supply the equipment.

5. The Plaintiffs by their letter dated 2.6.2002 and by their Advocate’s letter dated 10.2.2003 once again demanded payment. It is only after receipt of the letter dated 10.2.2003 that the Defendants replied by their letter dated 20.2.2003 making certain allegations to the effect that they could not perform their obligation in view of the

Plaintiff's changing the venue. This allegation was raised for the first time after more than three years. In any event, the same is not supported by any evidence. In the circumstances, there is no defence to the suit. However, there is no provision for the interest. The interest was only demanded by the Plaintiff's Advocates notice dated 2nd June, 2002.

6. The Summons for Judgment is therefore made absolute and the suit is decreed in the sum of Rs.2,00,000/- together with interest thereon at 12% per annum from 2nd June, 2002 till payment and/or realisation and costs.

Refund as per rules.